

DETAILED ACTION

Acknowledgements

This office action is in response to Applicant's communication filed on 3/31/2008. Claims 1-7, 9-11 and 13-14 have been amended. New claim 15 has been added. As such, claims 1-15 are pending in the application.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/31/2008 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michel et al, U.S. Patent No. 5,625,690, in view of Lampson et al, U.S. Patent Application Publication No. 2003/0194094 and further in view of Chiles et al., US Patent No. 6,167,567. The examiner would like to point out that while Michel may not employ the same terminology as the present Applicants, Michel does teach the same ideas as

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Applicants. Specifically, Michel teaches the idea of certificating although it is couched in terms of a "software ID number" and "DES key" that is described in Michel at Column 4. The process of Michel then goes on to teach of a paying-per-use system in which security is enhanced by reference to a "counter" to determine if continued use of the software is allowed. This is equivalent to Applicants' licensing system without continual referral to an accounting server. What seems to not be expressly taught in Michel are some of the newer features of software that have been developed and in use since the publication of Michel. These features are the notions of certificate and license technologies. However, Lampson discloses features such as certificates and licensing. Both Michel and Lampson do not disclose user agreed update of the file and a new file installation independent from said access to the content. Chiles discloses user agreed updates and a new file installation independent from said access to the content. Therefore, a combination of these references teaches the present invention as claimed.

With regard to claims 1, 2, 14 and 15, Michel teaches the system and method comprising:

reporting, via a computer, identification to an accounting server from a terminal device, when contents to be charged for are accessed in the terminal device, and which is previously identified in said accounting server; (col. 4, lines 7-13 and 55-59, describing a software identification number)

confirming propriety of the reported identification in said accounting server, and performing fee charging; and (col. 4, line 64 – col. 5, line 3, describing confirming identifying information; col. 8, lines 24-32, describing fee charging)

when the propriety of the registration certification is confirmed, reporting permission of access to the contents, from said accounting server to said terminal device, and making the contents accessible in said terminal device, (col. 5, lines 4-29 describing a public/private key system for accessing contents) wherein

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when access is made to the contents, a license file in the terminal device is referred to, and, when the license file is determined to be valid, access to the contents is continued without accessing the accounting server, and

when the license file is not determined to be valid, access to the accounting server is carried out, notification of charging is made to the accounting server and, after the completion of the charging, access to the contents is continued.

As mentioned above Michel, does not expressly teach certificates and licenses. However, these aspects of the invention are taught by Lampson (paragraph 93, and Figures 9,11). As well, Michel teaches the act of checking validity of number of uses of a software program, at (Michel, col. 8, lines 24-32). Therefore, it would have been obvious to a person having ordinary skills in the art at the time the invention was made to modify the disclosure of Michel to include the disclosure of Lampson. The motivation to combine these two references would be to utilize the pay per use protection technique for the unauthorized use of the computer software as evidenced by Michel (Abstract).

Moreover, Michel and Lampson do not disclose user at the terminal device agrees to update the license file and a new license file received from the accounting server is installed independent from said access to the contents. Since, Lampson teach certificates and licenses, Examiner cites Chiles disclosing "user at the terminal device agrees to update the file and a new file received from the accounting server is installed" (col. 14, lines 62-col.19, lines 19; also see Fig. 5A-5D). Chiles also discloses a new file received from the accounting server is installed independent from said access to the contents (col. 2, lines 42-56). In other words, Chiles discloses monitoring on a periodic basis (user-initiated or automatic time-scheduled basis) whether the client software should be updated based on comparison of version numbers of the most recent update

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available at that site and installed at the client. If the client software requires new update, then downloading/installing updated file and changing the version number of client's software. This interpretation is further supported by Applicant's remarks dated 3/31/2008 regarding having a system to monitor the validity of a license having the ability to install a new license when the old license is invalid independent of the specific contents.

Thus a combination of the references teaches:

when the license file is not determined to be valid and a user at the terminal device agrees to update the license file, access to the accounting server is carried out based on the registration certification, notification of charging is made to the accounting server and, after the completion of the charging, access to the contents is continued and a new license file received from the accounting server is installed independent from said access to the contents.

Therefore, it would have been obvious to a person having ordinary skills in the art at the time the invention was made to modify the disclosure of Michel and Lampson to include the disclosure of Chiles. The motivation for combining these references would be to allow user-initiated update for the software product to take place as evidenced by Chiles (col. 14, lines 63-67).

With regard to claims 3, 6 and 10, Michel teaches the method, device, and recording medium comprising:

determining, via a computer, whether or not a condition for accessing contents is satisfied, when the contents are accessed; and wherein

enabling access to the contents when the condition for accessing the contents is satisfied, and enabling access to the contents after performing fee charging when the condition for accessing the contents is not satisfied,

(col. 8, lines 24-32 fee charging; col. 4, line 64 – col. 5, line 3; col. 5, lines 4-29 describing a public/private key system for accessing contents)

As mentioned above Michel, does not expressly teach certificates and licenses. However, these aspects of the invention are taught by Lampson (paragraph 93, and Figures 9,11). As well, Michel teaches the act of checking validity of number of uses of a software program, at (Michel, col. 8, lines 24-32). Therefore, it would have been obvious to a person having ordinary skills in the art at the time the invention was made to modify the disclosure of Michel to include the disclosure of Lampson. The motivation to combine these two references would be to utilize the pay per use protection technique for the unauthorized use of the computer software as evidenced by Michel (Abstract).

Moreover, Michel and Lampson do not disclose user at the terminal device agrees to update the license file and a new license file received from the accounting server is installed independent from said access to the contents. Since, Lampson teach certificates and licenses, Examiner cites Chiles disclosing "user at the terminal device agrees to update the file and a new file received from the accounting server is installed" (col. 14, lines 62-col.19, lines 19; also see Fig. 5A-5D). Chiles also discloses a new file received from the accounting server is installed independent from said access to the contents (col. 2, lines 42-56). In other words, Chiles discloses monitoring on a periodic basis (user-initiated or automatic time-scheduled basis) whether the client software should be updated based on comparison of version numbers of the most recent update available at that site and installed at the client. If the client software requires new update, then downloading/installing updated file and changing the version number of client's software. This interpretation is further supported by Applicant's remarks dated

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3/31/2008 regarding having a system to monitor the validity of a license having the ability to install a new license when the old license is invalid independent of the specific contents.

Thus a combination of the references teaches:

when the license file is not determined to be valid and a user at the terminal device agrees to update the license file, access to the accounting server is carried out based on the registration certification, notification of charging is made to the accounting server and, after the completion of the charging, access to the contents is continued and a new license file received from the accounting server is installed independent from said access to the contents.

Therefore, it would have been obvious to a person having ordinary skills in the art at the time the invention was made to modify the disclosure of Michel and Lampson to include the disclosure of Chiles. The motivation for combining these references would be to allow user-initiated update for the software product to take place as evidenced by Chiles (col. 14, lines 63-67).

With regard to claims 4, 7 and 11, Michel teaches the method, device, and recording medium comprising:

determining, via a computer, whether or not a condition for accessing contents is satisfied; reporting fee charging to an accounting server when the condition for accessing the contents is not satisfied; and updating from said accounting server the condition for accessing the contents into a condition such that the contents can be accessed, wherein,

(col. 8, lines 24-32 fee charging; col. 4, line 64 – col. 5, line 3; col. 5, lines 4-29 describing a public/private key system for accessing contents)

As mentioned above Michel, does not expressly teach certificates and licenses.

However, these aspects of the invention are taught by Lampson (paragraph 93, and Figures 9,11). As well, Michel teaches the act of checking validity of number of uses of a software program, at (Michel, col. 8, lines 24-32). Therefore, it would have been

obvious to a person having ordinary skills in the art at the time the invention was made to modify the disclosure of Michel to include the disclosure of Lampson. The motivation to combine these two references would be to utilize the pay per use protection technique for the unauthorized use of the computer software as evidenced by Michel (Abstract).

Moreover, Michel and Lampson do not disclose user at the terminal device agrees to update the license file and a new license file received from the accounting server is installed independent from said access to the contents. Since, Lampson teaches certificates and licenses, Examiner cites Chiles disclosing "user at the terminal device agrees to update the file and a new file received from the accounting server is installed" (col. 14, lines 62-col.19, lines 19; also see Fig. 5A-5D). Chiles also discloses a new file received from the accounting server is installed independent from said access to the contents (col. 2, lines 42-56). In other words, Chiles discloses monitoring on a periodic basis (user-initiated or automatic time-scheduled basis) whether the client software should be updated based on comparison of version numbers of the most recent update available at that site and installed at the client. If the client software requires new update, then downloading/installing updated file and changing the version number of client's software. This is further supported by Applicant's remarks dated 3/31/2008 regarding having a system to monitor the validity of a license having the ability to install a new license when the old license is invalid independent of the specific contents.

Thus a combination of the references teaches:

when the license file is not determined to be valid and a user at the terminal device agrees to update the license file, access to the accounting server is carried out based on

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the registration certification, notification of charging is made to the accounting server and, after the completion of the charging, access to the contents is continued and a new license file received from the accounting server is installed independent from said access to the contents.

Therefore, it would have been obvious to a person having ordinary skills in the art at the time the invention was made to modify the disclosure of Michel and Lampson to include the disclosure of Chiles. The motivation for combining these references would be to allow user-initiated update for the software product to take place as evidenced by Chiles (col. 14, lines 63-67).

With regard to claims 8 and 12, Michel teaches the device and recording medium wherein:

said determining part, accounting reporting part and updating part are achieved on an operating system of a terminal device. (col. 9-10, claims 3-7)

With regard to claims 5, 9 and 13, Michel teaches the method, device, and recording medium comprising:

receiving, via a computer, information previously issued for registration of a terminal device, and determining whether or not the information is valid;
(col. 4, lines 7-13 and 55-59, describing a software identification number)

transmitting the determination result to said terminal device, generating information indicating that a condition for accessing contents is satisfied when the determination result is that the certificate is valid, and transmitting the generated information to said terminal device; and (col. 4, line 64 – col. 5, line 3; col. 5, lines 4-29 describing a public/private key system for accessing contents)

As mentioned above Michel, does not expressly teach certificates and licenses.

However, these aspects of the invention are taught by Lampson (paragraph 93, and Figures 9,11). As well, Michel teaches the act of checking validity of number of uses of a software program, at (Michel, col. 8, lines 24-32). Therefore, it would have been obvious to a person having ordinary skills in the art at the time the invention was made to modify the disclosure of Michel to include the disclosure of Lampson. The motivation

to combine these two references would be to utilize the pay per use protection technique for the unauthorized use of the computer software as evidenced by Michel (Abstract).

Moreover, Michel and Lampson do not disclose user at the terminal device agrees to update the license file and a new license file received from the accounting server is installed independent from said access to the contents. Since, Lampson teach certificates and licenses, Examiner cites Chiles disclosing "user at the terminal device agrees to update the file and a new file received from the accounting server is installed" (col. 14, lines 62-col.19, lines 19; also see Fig. 5A-5D). Chiles also discloses a new file received from the accounting server is installed independent from said access to the contents (col. 2, lines 42-56). In other words, Chiles discloses monitoring on a periodic basis (user-initiated or automatic time-scheduled basis) whether the client software should be updated based on comparison of version numbers of the most recent update available at that site and installed at the client. If the client software requires new update, then downloading/installing updated file and changing the version number of client's software. This interpretation is further supported by Applicant's remarks dated 3/31/2008 regarding having a system to monitor the validity of a license having the ability to install a new license when the old license is invalid independent of the specific contents.

Thus a combination of the references teaches:

when the license file is not determined to be valid and a user at the terminal device agrees to update the license file, access to the accounting server is carried out based on the registration certification, notification of charging is made to the accounting server and, after the completion of the charging, access to the contents is continued and a new

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license file received from the accounting server is installed independent from said access to the contents.

Therefore, it would have been obvious to a person having ordinary skills in the art at the time the invention was made to modify the disclosure of Michel and Lampson to include the disclosure of Chiles. The motivation for combining these references would be to allow user-initiated update for the software product to take place as evidenced by Chiles (col. 14, lines 63-67).

Response to Arguments

Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAJESH KHATTAR whose telephone number is (571)272-7981. The examiner can normally be reached on Flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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